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PP RUEHWEB

DE RUEHSN #0156/01 0511612
ZNR UUUUU ZZH
P 201612Z FEB 09
FM AMEMBASSY SAN SALVADOR
TO RUEHC/SECSTATE WASHDC PRIORITY 0733
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE PRIORITY

UNCLAS SAN SALVADOR 000156

SENSITIVE
SIPDIS

DEPT FOR G/TIP, G-ACBLANK, INL, DRL, PRM, WHA/PPC

E.O. 12958: N/A
TAGS: [KTIP](#) [KCRM](#) [PHUM](#) [KWMN](#) [SMIG](#) [KFRD](#) [ASEC](#) [PREF](#) [ELAB](#)
ES
SUBJECT: 2008 TRAFFICKING IN PERSONS REPORT

REF: STATE 132759

¶1. (U) The following is post's response to Reftel. The text directly tracks reftel Paragraph 23-27 and relevant subsections.

¶2. (SBU) Responses to checklist items follow. Note internal paragraph numbering.

Paragraph 23 - The Country's TIP Situation

¶A. Sources of TIP information are the Ministry of Foreign Affairs (MFA), the National Civilian Police (PNC), the Attorney General's Office (FGR), the Salvadoran Institute for the Comprehensive Development of Children and Adolescents (ISNA), the Salvadoran Institute for Women's Development (ISDEMU), the International Labor Organization (ILO), and the non-governmental organization (NGO) Save the Children. These sources are considered reliable; however, the full extent of trafficking is unknown as accurate statistics are not available.

¶B. El Salvador is a country of origin, transit, and destination for trafficked persons for the purpose of sexual exploitation and forced labor. The majority of victims are females -- children and adolescents -- trafficked for commercial sexual exploitation. Most TIP victims come from El Salvador and other Central American countries. The full extent of trafficking in El Salvador is unknown. During the reporting period, the PNC reported that it had investigated TIP cases involving 45 female and two male victims. Within El Salvador, the majority of TIP victims are women and girls who are trafficked from the countryside to population centers to serve as prostitutes. The government estimates that 80 percent of victims are trafficked for sexual exploitation, 10 percent for fraudulent adoptions, 5 percent for forced labor, and 5 percent for situations analogous to slavery. There is no evidence that there has been a significant change in type of trafficking during the reporting period. The destinations of victims have changed slightly; 2008 saw an increase in victims being trafficked to European countries.

¶C. Victims are trafficked into varying degrees of conditions, and are subjected to a wide range of abuses. NGOs report that some victims are not deprived of their physical liberty, but are economically or emotionally tied to their traffickers. Others are addicted to drugs.

¶D. Salvadoran traffickers target females from 12 to 18 years of age, persons from low-income areas, adolescents without formal education, and unemployed young men. During the reporting period, there was some evidence that traffickers also offered victims agricultural work. Most victims were

Salvadoran nationals, but some foreign victims entered into the country on their own from Nicaragua, Honduras, and Guatemala in response to job offers as domestic servants and were forced into prostitution upon arrival.

¶E. According to the MFA, traffickers are often owners of topless bars and brothels and employment agencies that offer work in beauty salons, gyms, and factories, or as maids or models. Traffickers are also frequently owners of plantations, ranches, or factories. According to law enforcement officials, there is some evidence that members of organized crime are involved in trafficking.

Paragraph 24 - The Government's Anti-TIP Efforts

¶A. The government does acknowledge that trafficking is a problem.

¶B. The National Committee to Combat Trafficking in Persons is a task force made up of the government agencies responsible for addressing TIP. Its members include the Ministry of Foreign Affairs (MFA), Ministry of Education, Ministry of Public Security, Ministry of Labor, the PNC, the Office of the Attorney General, ISNA, and ISDEMU. The Committee collected data on trafficking, and its member agencies conducted anti-trafficking training, information programs, and provided assistance to victims. The coordinating agency is the MFA.

¶C. The government's ability to address trafficking is hampered primarily by financial constraints. It is unable to devote sufficient funding toward efforts to prevent trafficking, investigate trafficking cases, and prosecute traffickers. Corruption in the judiciary also undermines public confidence in criminal prosecutions and judicial redress for trafficking victims. There are no designated budgets for TIP within the PNC or the Office of the Attorney General. Additionally, the government lacks the resources to strengthen and improve public awareness campaigns and to improve attention to victims. While the MFA reports that corruption is not an obstacle to the prosecution of trafficking cases, NGOs and other credible sources report that corruption is a significant obstacle. NGOs also report that the government is hampered by disorganization and the inability to conduct proper forensic investigations.

¶D. The National Plan to Eliminate Trafficking in Persons (2008-2010) was drafted in December 2007 and allows Salvadoran agencies to monitor the government's anti-TIP efforts. The National Committee to Combat Trafficking in Persons meets once a month to monitor Salvadoran efforts to combat TIP and to make information available to international organizations and the public. Social stigma and fear of retribution prevents adequate reporting by TIP victims and collection of comprehensive data on TIP.

Paragraph 25 - Investigation and Prosecution of Traffickers

¶A. Article 367B of the Penal Code specifically prohibits trafficking in persons for sexual and non-sexual purposes. Article 367C provides increased penalties for aggravated circumstances, such as when the accused is an authority figure, if the victim is a minor, or if the victim has diminished capacity. The law applies to internal and transnational trafficking. In addition to trafficking, perpetrators can be charged with pandering, deprivation of liberty, and child endangerment.

Article 367B of Salvadoran criminal code states: Anyone who, either on his own behalf, or as a member of a national or international organization for the purpose of obtaining an economic benefit recruits, transports, moves, welcomes or

receives (people), outside or within the national territory, to carry out any activity of sexual exploitation, keep them in work or forced servitude, in similar practices to slavery, or for the extraction of (human) organs, fraudulent adoptions, or forced marriages, will be punished by imprisonment from four to eight years. When the victim is under 18 years or is of diminished mental capacity, the term will increase up to one-third of the above mentioned maximum. Anyone that facilitates, promotes or supports any of the above-mentioned activities will be punished by imprisonment from three to six years. When the described actions take place in commercial locations or any location that requires a special permit from a competent authority, such authority will revoke the permit and will proceed to immediately close it. (unofficial translation)

The Spanish text of article 367B of the Salvadoran Criminal Code which entered into force in January 2004, is as follows:

TRATA DE PERSONAS

Art. 367B.- El que por si o como miembro de una organizacion nacional o internacional con el proposito de obtener un beneficio economico reclute, transporte, traslade, acoja o recepte personas, dentro o fuera del territorio nacional, para ejecutar cualquier actividad de explotacion sexual, mantenerlas en trabajos o servicios forzados, en practicas analogas a la esclavitud, o para extraccion de organos, adopciones fraudulentas o celebracion de matrimonios forzados, sera sancionado con pena de cuatro a ocho anos de prision.

Cuando la victima sea persona menor de dieciocho anos o incapaz, la pena se aumentara hasta en una tercera parte del maximo senalado. Todo aquel que facilitare, promoviere o favoreciere cualquiera de las actividades anteriores sera sancionado con pena de tres a seis anos de prision. Cuando las acciones descritas se realizaren en locales comerciales o de cualquier naturaleza que requiera permiso de autoridad competente, esta debera revocarlo procediendo al cierre inmediato del mismo.

Salvadoran law does not provide for civil penalties in TIP cases.

1B. Article 367B of the Salvadoran Penal Code provides penalties for trafficking for sexual exploitation of four to eight years in prison. Penalties can be increased up to one-third of the maximum penalty if the victim is a minor or the trafficker is a public official or law enforcement agent, or if the crime was committed as part of abuse of authority in domestic, educational, or labor relations; or if, as a consequence of the crime, the victim dies or is deprived of his or her freedom of transit.

1C. Article 367B of the Salvadoran penal code provides penalties for trafficking for labor exploitation of four to eight years in prison. Penalties can be increased up to one-third of the maximum penalty if the victim is a minor; if the trafficker is a public official or law enforcement agent; if the crime was committed as part of abuse of authority in domestic, educational or labor relations; or if, as a consequence of the crime, the victim dies or is deprived of his or her freedom of transit. Forced or compulsory labor is also prohibited by the Salvadoran Constitution, except in cases of public calamity and other instances specified by law. All forms of slavery or practices similar to slavery are forbidden under a general provision of the Salvadoran Constitution, as well as under the criminal code.

1D. The criminal code provides penalties of 6 to 20 years in prison for rape. If the victim is younger than 15 years old, or is of diminished mental capacity, unconscious, or incapable of resisting, the sentence ranges from 14 to 20 years. The Salvadoran criminal code establishes prison sentences from 3 to 10 years for other types of sexual assault. If rape or sexual aggression is committed by a member of the victim's family, the penalty could be increased by up to one-third of the maximum penalty. According to the Office of the Attorney General, Salvadoran prosecutors often

prefer to prosecute criminals under rape charges rather than TIP charges because the mandated sentences are stronger for rape cases.

¶E. During the reporting period, the PNC reported that it investigated 73 cases of human trafficking, resulting in 23 trials and eight convictions. 57 cases involved children under 18 years of age, and 47 involved commercial sexual exploitation. There were no cases of the government criminally prosecuting labor recruiters who recruit workers using knowingly fraudulent or deceptive offers or by imposing fees or commissions for the purpose of subjecting the worker to debt bondage. There were no cases of the government criminally prosecuting employers or labor agents who confiscate workers' passports/travel documents for the purpose of trafficking, switch contracts or terms of employment without the worker's consent to keep workers in a state of service, use physical or sexual abuse or the threat of such abuse to keep workers in a state of service, or withhold payment of salaries as a means to keep workers in a state of service.

¶F. The government provides specialized training for officials to recognize, investigate, and prosecute trafficking. Additionally, the International Organization for Migration (IOM), the International Labor Organization (ILO), and the International Law Enforcement Academy (ILEA) have trained Salvadoran public officials on TIP. In November 2008, the Department provided the MFA with a trafficking specialist to provide a course in TIP to law enforcement and other Salvadoran officials.

¶G. The government cooperates with other governments in the investigation and prosecution of trafficking cases. The government reported that, during the reporting period, it cooperated in investigations with the United States, Guatemala, Nicaragua, and Belize.

¶H. The government does not extradite Salvadoran nationals for any crime, despite a bilateral, in-force extradition treaty.

¶I. Post has no evidence of government tolerance of trafficking. However, there are credible reports that some government officials in the department of Chalatenango are involved in trafficking activities.

¶J. During the reporting period, we know of one conviction of a government official involved in trafficking. In February 2008, one former PNC officer was sentenced to seven years imprisonment for TIP. The government has assembled a team of 38 officers to organize a national TIP training effort.

¶K. Prostitution is not a crime. Pandering, when a third party is involved in arranging a liaison between a prostitute and a client, is illegal, as is forced prostitution. In general, pandering laws are not enforced. Prior to the enactment of the TIP law in October 2004, TIP cases were typically tried as pandering. For the most part, TIP cases are correctly identified as trafficking and prosecuted under the TIP law.

¶L. El Salvador has contributed eleven contingents of troops to several peacekeeping operations. There have been no reports of Salvadoran nationals being involved in TIP or exploitation of TIP victims in these regions.

¶M. Post has no evidence that El Salvador is a child sex tourism destination. El Salvador saw no cases of foreign pedophiles. El Salvador's sexual abuse laws do have extraterritorial coverage, but no Salvadoran nationals were prosecuted under extraterritorial provisions during the reporting period.

Paragraph 26 - Protection and Assistance to Victims

¶A. In law and in practice, the government provides security

protection to all victims and witnesses who request it. Some were accommodated in a special shelter for TIP victims where they received psychological and medical care. Officers from the PNC witness protection program provide 24-hour protection to the TIP shelter. Save the Children reports that victims receive good support while in the shelter, but the support ceases as soon as the victims depart the shelter.

1B. The government has victim care facilities accessible to trafficking victims. Foreign victims are given the same access to care as domestic victims. The government had a specialized facility dedicated to victims of trafficking. At present, the shelter is being operated by ISNA, an agency that provides care to trafficking victims and to children who are orphans, abandoned, or homeless. A portion of the funding (\$32,000) for the shelter is provided by a project run by Population, Refugees, and Migration (PRM). Additional funding is supplied by IOM. The government did not specify the amount of money spent to assist TIP victims. It has established a Shelter Committee, which is comprised of the MFA, the Ministry of Public Security and Justice through the Migration Directorate, ISNA, ISDEMU, the Office of the Attorney General, the PNC, the Public Defender's Office, and IOM.

1C. The government provides trafficking victims with access to legal, medical, and psychological services through the aforementioned shelter, currently operated by ISNA. The government did not specify the amount of money spent to support the shelter program, but the funds that it does provide are from the national budget. A PRM-run program provides a portion of the funding for the shelter, and additional funding is given by IOM.

1D. There are no specific laws in place to provide temporary or permanent residency status to foreign trafficking victims. However, upon the request of the Office of the Attorney General and ISNA, the Director General of Migration can now grant special permission to victims for residency. We have received no reports of victims requesting temporary or permanent residency status.

1E. The government has not had any cases in which victims have sought long-term shelter or housing benefits.

1F. The government does not have a referral process to transfer victims detained, arrested, or placed in protective custody by law enforcement authorities to institutions that provide short or long-term care. The government does not deprive qualified victims of their right of freedom.

1G. During the reporting period, authorities reported 57 trafficking victims. 14 victims were referred to care facilities by law enforcement authorities. Nine victims were referred to care facilities by government-funded assistance programs.

1H. The government has a systematic method for identifying trafficking victims in the border regions. When an official identifies a potential trafficking victim, he/she fills out a form containing that person's data, and submits the form to the Director General of Migration, Trafficking Prevention section. The information is then transmitted to the Unit of Investigations so that it can be relayed to the Trafficking Department of the Border Division of the PNC. The government does not have a mechanism for screening for trafficking victims among persons involved in the commercial sex trade.

1I. El Salvador protects the rights of TIP victims. Victims are not subject to prosecution, detention, or fines.

1J. Victims are encouraged by the government to assist the investigation and prosecution of trafficking, although many refuse to do so. During the reporting period, 57 victims participated in the investigation or prosecution of traffickers. Victims may file civil suits or seek legal action against traffickers, and are free to pursue legal action unimpeded. Salvadoran law allows foreign TIP victims the right to work, but we have no knowledge that any TIP

victim has ever made that request. The government reports that victims have means of obtaining restitution.

¶K. The government provides training for government officials in identifying TIP violations and assisting victims, including the special needs of trafficked children. The government also provides training and assistance to its embassies and consulates in foreign countries that are destination or transit countries for TIP. During the reporting period, El Salvador's embassies and consulates abroad provided assistance to four victims. Additionally, El Salvador is an active member of the Regional Conference on Migration. El Salvador has a TIP agreement with Guatemala, and the Salvadoran Consulate in Tapachula, Mexico is part of the network against TIP. El Salvador has drafted guidelines for its Foreign Service on combating TIP.

¶L. The government maintains "Protection Consulates" (Consulados de Proteccion) along the major human smuggling and trafficking routes between El Salvador and the U.S. These consulates arrange immediate medical care for all injured Salvadorans, including TIP victims. After victims are repatriated, they have the option of seeking additional government-funded medical attention or returning to their residence. If they are indigent, the government provides temporary housing, financial, and job placement support.

¶M. The IOM is the most active anti-TIP NGO in El Salvador. In addition to providing training, they monitor trafficking patterns and fund repatriation of TIP victims.

Paragraph 27 - Prevention

¶A. During the reporting period, the government ran anti-trafficking information and education campaigns. The government trained officials to prevent and deter TIP. The training has improved the processing of trafficking victims. Government training was provided to 5,231 officials from the Office of Migration, Ministry of Health and Education, the National Judicial Council, the Ministry of Labor, the Ministry of Tourism, the Institute of Legal Medicine, the PNC, IDESMU, ISNA, and the MFA.

¶B. The PNC and the Directorate General of Migration jointly patrol key locations to prevent and combat TIP. Additionally, the PNC Border division studies migration profiles in order to detect migration flows and to recognize TIP cases.

¶C. The National Committee Against Trafficking in Persons (the TIP task force) is comprised of 15 government agencies concerned with trafficking, including: the Foreign Ministry (Ministerio de Relaciones Exteriores); Ministry of Justice (Ministerio de Justicia y Paz); Ministry of Finance (Hacienda); Ministry of Education (Educacion); Ministry of Labor (Trabajo); Ministry of Health (Salud); Ministry of Tourism (Turismo); the National Civilian Police (Policia Nacional Civil); Migration (Migracion); Family Assistance (Secretaria Nacional de la Familia); the Office of the Attorney General (Fiscal General); the Public Defender's office (Procuraduria General); the National Assembly (Asamblea Legislativa); child protective services (Instituto Salvadoreno para el Desarrollo Integral de la Ninez); and women's protective services (Instituto Salvadoreno para el Desarrollo de la Mujer). The government of El Salvador has a coordination and communication protocol that involves all the members of the TIP committee. The Foreign Ministry chairs the group, while each agency has jurisdiction over its responsibilities. The government has a corruption committee coordinated by the National Council for Sustainable Development and an Ethics Committee that oversees public officials.

¶D. The government's national action plan to address TIP, the National Plan to Eliminate Trafficking in Persons (2008-2010), was drafted in 2007. The members of the National

Committee Against TIP were involved in developing the plan. Several NGOs were consulted in the process including the Human Rights Institute of the Central America University (IDHUCA) and CEMUJER, a women's rights NGO. The government conducted several briefings to disseminate their action plan.

¶E. The PNC conducts "Plan Sarissa", which is comprised of vehicle inspections, patrols, and investigations, with the aim of reducing the overall crime level through deterrence. The PNC reports that it runs weekly operations in the metropolitan zone of San Salvador to reduce the demand for commercial sex acts.

¶F. The government has taken no actions during the reporting period to reduce the participation in international child sex tourism by Salvadoran nationals.

¶G. The government includes an anti-trafficking component in the training it gives to military forces prior to deployment for peacekeeping or similar missions.

BLAU